

**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION  
MINUTES OF MEETING, Public Session**

February 14, 2008

**Call To Order:** Chairman Ross Johnson called the meeting to order at 10:05 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh and Ray Remy were present.

**Item #1 - Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

Chairman Johnson asked if anyone in the audience cared to make comments on any subjects not on the Agenda.

Betty Ann Downing with Kaufman Downing thanked the Commission for reinstituting the dial-in broadcast system for the Commission meetings.

Tom Higgins, Campaign Manager for Mark Leno for State Senate, had comments regarding Carole Migden and Re-elect Senator Carole Migden.

Chairman Johnson informed Mr. Higgins the Commission members had no knowledge concerning the details of any active investigations, was aware a formal complaint had been filed in this matter, and that the FPPC Enforcement staff was looking into it.

**Item #2 – Informational Hearing on Independent Expenditures.**

Chairman Johnson announced this was the first of, hopefully, a series of informational hearings on subjects related to political campaigns and campaign finance, and the subject of this informational hearing was “Growth of Independent Expenditures Benefiting Candidates for State Office.” He said the hearing was not a debate about legal issues regarding independent expenditures, but what he hoped the hearing would be about was what the Commission could do under its existing authority to provide for greater disclosure. There was a Power Point presentation, prepared by staff based on information from the Secretary of State’s office, dealing only with candidates running for state office, showing the rapid increase of independent expenditures in California.

After the slide presentation, several people spoke on the topic of independent expenditures and shared information from some of their studies. The speakers were: 1) Edwin Bender, Executive Director of the National Institute on Money in State Politics; 2) Linda King, Deputy Director of Operations for the National Institute on Money in State Politics; 3) Bob Stern, President of the Center for Governmental Studies; 4) Kim Alexander, President and founder of the California Voter Foundation; and 5) Derek Cressman, Government Watchdog Director of Common Cause.

After the last speaker, Commissioner Huguenin offered comments. Chairman Johnson then asked if there were any additional comments from Commissioners or audience members. There were none. He announced that staff would be preparing a more detailed report on issues related to independent expenditures, and adjourned the informational hearing.

The Chairman announced that before going into closed session, the Commission was taking up an item out of order -- Item 18 -- a Resolution honoring Bob Tribe, a long time employee of the FPPC, because the staff and friends of Mr. Tribe were having cake and refreshments in his honor over the noon hour.

**Item #18 - Resolution of the Commission Honoring Bob Tribe.**

Moved by Commissioner Huguenin and seconded by Commissioner Leidigh to approve the Resolution.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

The Chairman adjourned open session at 11:45 a.m., announced they would immediately convene in executive session, and advised the regular order of business would resume in one hour.

The Commission reconvened in open session at 12:45 p.m., and Chairman Johnson advised no reportable action was taken in closed session. He then announced the Commission would begin with the Proposed Consent Items, and it was requested to remove Item 6, so the Proposed Consent Items would include Item Nos. 4 through 12, with the exception of Item No. 6.

**Item #4 - Approval of the January 10, 2008, Commission meeting minutes.**

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve the January 10, 2008, Commission meeting minutes as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

**Item #5 - In the Matter of Gregory T. Nelson, FPPC No. 03/006.** Staff: Andreas C. Rockas, Senior Commission Counsel and Investigator Leon Nurse-Williams. In January 2003, Respondent Gregory T. Nelson, a member of the Mendocino County Planning Commission, made a governmental decision in which he had a financial interest in violation of Government Code Section 87100 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$3,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

**Item #7 - In the Matter of Jonathan Leong, FPPC No. 07/762.** Staff: Political Reform Consultant Teri Rindahl. Jonathan Leong, California Earthquake Authority board member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #8 - In the Matter of Thomas Durham, FPPC No. 07/499.** Staff: Political Reform Consultant Wayne Imberi. Thomas Durham, Yuba County Planning Commission member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87202 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #9 - In the Matter of Michael Gorman, FPPC No. 07/451.** Staff: Political Reform Consultant Wayne Imberi. Michael Gorman, West Sacramento Business Loan Fund Committee member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #10 - In the Matter of Mark Baldwin, FPPC No. 07/314.** Staff: Political Reform Consultant Jeanette Turvill. Mark Baldwin, Fortuna Business Improvement District board member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #11 - In the Matter of Charles Learned, FPPC No. 07/452.** Staff: Political Reform Consultant Wayne Imberi. Charles Learned, City of West Sacramento Project Area Committee member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #12 - Failure to Timely File Late Contribution Reports - Proactive Program.** Chief Investigator Sue Straine and Political Reform Consultant Jeanette Turvill. The following persons have entered into a stipulation for failure to file a late contribution report in 2006, in violation of Government Code Section 84203:

- a. In the Matter of Barry Schuler, FPPC No. 07/772.** Barry Schuler of Napa, failed to timely disclose two late contributions totaling \$15,700 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and a \$2,355 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

- b. In the Matter of Seville Construction Services, Inc., FPPC No. 07/297.** Seville Construction Services, Inc. of Los Angeles, failed to timely disclose a late contribution totaling \$15,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$2,250 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

#### **ITEM REMOVED FROM PROPOSED CONSENT ITEMS**

**Item #6 - In the Matter of No on Measure C and Carol Jansen, FPPC No. 02/103.** Staff: Commission Counsel Margaret Figero and Investigator III Sandra Buckner. Respondent No on Measure C ("Committee") was a sponsored ballot measure committee primarily formed to oppose Measure C in the March 5, 2002, East Palo Alto election. Respondent Carol Jansen served as Respondent Committee's treasurer. In this matter, Respondents failed to identify Respondent Committee's sponsor in its statement of organization and did not include the sponsor's name in Respondent Committee's name, in violation of Government Code Section 84102, subdivisions (a) and (b) (1 count); failed to disclose contributions in campaign statements, in violation of Government Code

Section 84211, subdivision (f) (2 counts); failed to disclose required occupation and employer information for certain contributors, in violation of Government Code Sections 84211, subdivision (f) (1 count) and 84203, subdivision (a) (1 count); failed to disclose late contributions in a properly filed late contribution report, in violation of Government Code Section 84203, subdivisions (a) and (b) (1 count); failed to return within 60 days of receipt, contributions for which Respondents did not have occupation and employer information in records in violation of Government Code Section 85700, subdivision (a) (1 count); failed to report payments made by an agent to a subvendor on behalf of Respondent Committee, in violation of Government Code Sections 84303 and 84211, subdivision (k) (1 count); and failed to timely file semi-annual campaign statements, in violation of Government Code Section 84200, subdivision (a) (2 counts).

Moved by Commissioner Huguenin and seconded by Commissioner Remy to approve a Default, Decision and Order finding a violation of ten counts and a \$30,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #13 - Approval of Campaign Disclosure Manuals.** Staff: Technical Assistance Division Chief Carla Wardlow. Staff requested approval of revised Campaign Disclosure Manual 1 for State Candidates, Their Controlled Committees, and Primarily Formed Committees for State Candidates; and new Manual 5 for Major Donor Committees.

Scott Hallabrin, General Counsel, informed the Commission they wanted to pull the new Manual 6 for Independent Expenditure Committees from consideration.

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve Manual 1 and Manual 5, with the addition on 1-11 to “see also this manual at 5-11 for further details” and Manual 6 was put over.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #14 - Adoption of Proposed Nonsubstantive Amendments to Regulation 18200 – Reference to the “Act” in Commission Regulations.** Staff: General Counsel Scott Hallabrin. Staff proposed the adoption of technical, nonsubstantive amendments to Regulation 18200, adding the definition of “Act” to the regulation and indicated that, as used in Commission regulations, the term references the Political Reform Act.

Moved by Commissioner Huguenin and seconded by Commissioner Remy for adoption of amendments as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #15 - Adoption of Proposed Regulation 18421.7 and Amendment to Regulation 18401 – Reporting an Expenditure for a Gift, a Meal, or Out-of-State Travel.**

Staff: Commission Counsel Brian G. Lau and General Counsel Scott Hallabrin. Staff proposed Regulation 18421.7, requiring a candidate controlled committee to describe the political, legislative, or governmental purpose when reporting expenditures for gifts, meals, or out-of-state travel. Additionally, staff proposed a related amendment to Regulation 18401, requiring the maintenance of specified records in connection with the information required under Regulation 18421.7.

Chairman Johnson announced that within the last 24 hours the Commission had received several communications on this subject. He said it was difficult to deal with last minute communications and wanted to emphasize that all comments were welcome, but it was easier for the Commission to deal with them seriously if they received them a little earlier.

Several people had comments and suggestions regarding this item: Betty Ann Downing, as a volunteer for the California Political Attorneys Association,; Carmen Balber, with the Foundation for Taxpayers and Consumer Rights; and Derek Cressman, with Common Cause.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to: (1) direct staff to bring Regulations 18421.7 and 18401 for adoption of further amendments at the May 2008 meeting but, in the interim, (2) adopt Regulation 18421.7 as recommended by staff and Regulation 18401 with additional language at page 5, line 2, after the words “dated memorandum” to add the words “or other dated written record;” and (3) make all changes to the regulations effective on July 1, 2008.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #16 - Prenotice Discussion of Proposed Amendments to Regulations 18360 and 18361 - Complaint Procedure/Delegation of Executive Director’s Authority.** Staff: General Counsel Scott Hallabrin. Staff proposed amendments to Regulation 18360, which governs the filing and processing of complaints alleging violations of the Political Reform Act, and Regulation 18361, expanding the Executive Director’s delegation authority to duties under Regulation 18360.

Charles Bell spoke and was in support of some of the proposed amendments, but he also had some issues and concerns.

Moved by Commissioner Leidigh and seconded by Chairman Johnson to approve publication of notice for adoption of amendments to Regulations 18360 and 18361 at the April 2008 meeting with the additional language added to Regulation 18360 at page 3, line 5 “if the Executive Director determines, in consultation with the General Counsel...”

**Item #17 - Regulatory Proposals for 2008.** Staff: General Counsel Scott Hallabrin. Staff presented a summary of regulatory proposals for 2008, subject to additions and approval by the Commission.

After discussion among the Commissioners, staff was directed to prepare a more detailed Regulatory Calendar.

**Item #19 - Legislative Report.** Staff: Government Affairs Director Whitney Barazoto. Staff presented information on legislative proposals, summaries of current legislation, and a proposed policy regarding legislation that imposes costs on the Commission. The Commission may discuss or take action on any item listed in the legislative report.

Moved by Commissioner Remy and seconded by Chairman Johnson to approve the Resolution as proposed by staff with changes as noted at paragraph 6—replace the word “reduces” with the word “jeopardizes” and add the word “effectively” before the word “enforce.”

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin that the Commission seek an author for the bill proposal for the online filing of “behested payments” but to change the days from 30 days to 45 days that the payments must be reported after the \$5,000 threshold has been met.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve staff’s recommendation to not seek an author for the bill proposal for enhanced disclosure of late contributions.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

**Item #20 - Litigation Report.** Staff: General Counsel Scott Hallabrin, as submitted.

**Item #21 - Executive Director’s Report.** Staff: Executive Director Michael B. Salerno, as submitted.

Commissioner Leidigh asked why it was necessary for Mr. Salerno to delegate the last Probable Cause Hearing to Mr. Woodlock, as it was adding additional work to the Legal staff workload, and how frequently this might occur.

Mr. Salerno advised he would address those questions in his report at the next Commission meeting.

Commissioner Huguenin asked Mr. Salerno if it would be possible for the Commissioners to meet in a working session regarding the new FPPC budget before July 1, 2008.

Chairman Johnson directed staff to look into having a working session for the Commissioners.

**Item #22 - Chairman's Report.** Chairman Ross Johnson.

Chairman Johnson announced today was his one year anniversary with the Commission. He said it had been a very interesting experience, he enjoyed working with the Commissioners and the outstanding and dedicated staff, and he was looking forward to the coming year.

Chairman Johnson adjourned the meeting at 3:25 p.m.

Dated: February 27, 2008

Respectfully submitted,

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Beth Manwaring  
Commission Assistant

Approved: \_\_\_\_\_  
Ross Johnson  
Chairman